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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTOPHER SANCHEZ,

Defendant and Appellant.

D059932

(Super. Ct. No. SCD219473)

APPEAL from a judgment of the Superior Court of San Diego County, Jeffrey F. Fraser, Judge. Affirmed as modified with directions.

A jury found Christopher Sanchez guilty of three counts: first degree murder (Pen. Code, § 187, subd. (a))¹ with personal and intentional discharge of a firearm, causing great bodily injury or death (§ 12022.53, subd. (d)), and personal firearm use (§ 12022.5, subd. (a)) (count 1); attempted murder (§§ 187, subd. (a), 664) with personal and intentional discharge of a firearm, causing great bodily injury or death (§ 12022.53, subd. (d)), personal firearm use (§ 12022.5, subd. (a)) and personal infliction of great bodily injury (§ 12022.7, subd. (a)) (count 2); and shooting at an occupied motor vehicle (§ 246) with personal and

¹ All further statutory references are to the Penal Code.

intentional discharge of a firearm, causing great bodily injury or death (§ 12022.53, subd. (d)), and personal infliction of great bodily injury (§ 12022.7, subd. (a)) (count 3). The court sentenced Sanchez to prison for 10 years plus 75 years to life: on count 1, 25 years to life, plus 25 years to life for the section 12022.53, subdivision (d) enhancement; and on count 2, the seven-year middle term plus 25 years to life for the section 12022.53, subdivision (d) enhancement and three years for the section 12022.7, subdivision (a) enhancement. The court stayed sentence on count 3 and its enhancements, and on the section 12022.5, subdivision (a) enhancements to counts 1 and 2.

Sanchez appeals, contending the three-year sentence for the section 12022.7, subdivision (a) enhancement to count 2 must be stayed in light of the section 12022.53, subdivision (d) enhancement imposed on count 2. Respondent properly concedes the point. (§ 12022.53, subd. (f); *People v. Gonzalez* (2008) 43 Cal.4th 1118, 1126-1127, 1129-1130.)

DISPOSITION

The judgment is modified by staying the section 12022.7, subdivision (a) enhancement to count 2. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections and Rehabilitation.

HALLER, J.

WE CONCUR:

BENKE, Acting P. J.

IRION, J.